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Law

FOREIGN TAX RELIEF

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFR 51-7, *International Law*, and DoD Directive 5100.64, *DoD Foreign Tax Relief*, June 12, 1979. It outlines the procedures whereby Air Force personnel obtain tax relief from foreign governments while serving overseas.

SUMMARY OF REVISIONS

This instruction is the initial publication of AFI 51-702, substantially revising AFR 110-18. It deletes reference to country tax studies prepared by designated commanding officers (DCOs). The air component of a unified command assigned responsibilities under the foreign tax relief program will provide reports of significant tax relief activities to HQ USAF/JAI.

1. Responsibilities:

1.1. All Air Force Personnel. Will obtain, to the maximum extent practicable, effective relief from all foreign taxes whenever the ultimate economic burden of those taxes would otherwise result in the expenditure of appropriated or nonappropriated Air Force funds. (See **Attachment 1**.)

1.2. The International and Operations Law Division (HQ USAF/JAI). Supervises and monitors the Air Force's program for foreign tax relief and coordinates with the Office of the Air Force General Counsel (SAF/GC) on relevant foreign tax matters.

1.3. The Commander Of The Unified Command. Appoints a Designated Commanding Officer (DCO) for tax matters for each foreign country in which United States expenditures are made in the interest of the common defense. A commander may serve as the DCO for more than one country.

1.4. The General Counsel of DoD. Appoints the DCO in countries or regions with no unified command.

1.5. DCOs. May appoint an in-country senior US officer, the US Country Representative (COREP), for each country under their command.

1.6. Major Commands (MAJCOM). In countries where the DCO is not an Air Force commander, overseas MAJCOM commanders appoint an Air Force Liaison Officer (AFLO) to coordinate communication among all Air Force activities, the DCO, COREP, and other competent authorities about the Air Force tax relief program.

1.7. Contracting Officers. Tell their servicing judge advocate offices whether the contractor has fully and promptly complied with the foreign tax provisions of the contract.

2. Referrals:

2.1. The appropriate Air Force office having responsibility for tax relief in the country concerned (DCO, COREP, AFLO) refers foreign tax problems involving the Air Force and its contractors or sub-contractors for action to HQ USAF/JAI. Such referrals may be submitted through unified command or Air Force channels.

2.2. When the DCO, COREP, or AFLO refers a foreign tax problem involving a contractor to higher headquarters, contracting officers must notify the contractor, unless doing so is not advisable due to overriding US national interests, such as those relating to negotiating positions or security requirements.

3. Foreign Tax Relief Reports. File a copy of any report or summary of significant foreign tax relief program activities prepared by or for the air component of a unified command with HQ USAF/JAI.

NOLAN SKLUTE, Maj General, USAF
The Judge Advocate General

Attachment 1

GLOSSARY OF ABBREVIATIONS, ACRONYMS, AND TERMS

Section A--Abbreviations and Acronyms

COREP—Country Representative

DCO—Designated Commanding Officer

MAJCOM—Major Command

SAF/GC—Office of the Air Force General Counsel

Section B--Terms

Relief—Includes any method, technique, or procedure by which the ultimate economic burden of a tax on DoD funds may be avoided or otherwise remedied, such as exemptions, refunds, or drawbacks.

Tax and Taxes—Includes all foreign customs duties, import and export taxes, excises, fees, and any other charges, except for services rendered or other consideration actually received for them. Taxes may be direct or indirect, and imposed at the national, local, or an intermediate level of a foreign country. It doesn't matter how the tax is denominated in foreign law or regulation. These taxes may include, but are not limited to purchase tax, sales tax, use tax, gross receipts tax, stamp tax, transfer tax, transaction tax, turnover tax, value added tax, service tax, trade tax, business tax, license tax, transportation tax, circulation tax, luxury tax, possession tax, production tax, registration tax, consumption tax, gasoline tax, real property tax, personal property tax, and gross income tax.

Tax Relief—As defined in this instruction, is deemed as not practicable to obtain if:

- The total economic burden of a tax is so small that it may be considered a *de minimis* matter, and the tax is not readily identifiable in the normal course of business. The total economic burden of a tax is computed on the basis of its rate, as it is estimated to apply to DoD funds, multiplied by the number of contracts (or other occasions) during a fiscal year to which (or on which) the rate is reasonably expected to apply.
- The cost of obtaining effective relief from a tax that is not readily identifiable in the normal course of business is out of proportion to how much would be saved.